

STATEMENT BEFORE

SENATE SELECT COMMITTEE ON INTELLIGENCE

by



June 28, 1983

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I am a member of the History Department of

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George Washington University. I am here today representing over twenty thousand historians who are members of the Organization of American Historians (OAH) and the American Historical Association (AHA).

We appreciate your invitation to appear before this Committee to discuss S. 1324. We recognize the necessity to protect sources and methods utilized in intelligence operations and find it reassuring that the CIA now recognizes the need to ensure this protection within the Freedom of Information Act.

However, certain aspects of S. 1324 are very troubling to historians, whose perspective on information and documents often differs from that of journalists, lawyers and other users of information. Today we would like to discuss some of our reservations and point to aspects of S. 1324 that would not only have an impact on the work of historians but upon the knowledge and understanding of American foreign policy by future generations of Americans.

First, we would like to examine the ramifications of any legislation that exempts an entire category of files from search and review. As we understand it, this bill exempts neither certain information nor certain file folders, but rather a very broadly defined category of files. The CIA states that those files only contain information on the sources and methods of intelligence operations. While we obviously have no knowledge

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of the CIA file system, those of us who have spent hours in the National Archives, Federal Records Centers or presidential libraries know that operational files usually go far beyond sources and methods. Traditionally they include the policy guidelines and planning process for such operational activities - the heart of governmental decision-making. Indeed an indirect definition of operational files in S. 1324 substantiates this conclusion. In Sec. 2(a) 10 we are told that the exclusion of operational files will leave "files containing information gathered through intelligence operations accessible to requesters." If the exemption of operational files will leave access only to those containing intelligence information then it is clear that these operational files must contain the information vital to an understanding of policy and planning.

In addition, if an entire category of files is exempt from search and review, there will surely be a continual temptation on the part of officials to place ever increasing numbers of documents in file cabinets marked operational, including those that might be merely embarrassing. Broadly defined, is there any file of a government agency that does not deal with "operations?"

Next, we would like to point out that under S. 1324 these operational files will be exempt from FOIA forever. Mr. Chairman, the time is long past when the history of American foreign policy can be written from the files of the State Department. The very passage of the National Security Act in 1947 was a recognition that foreign policy decisions required the combined efforts of diplomats, strategists and experts in what was then called "psychological warfare." Therefore historical knowledge of our

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foreign policy must now come from the documents of the State Department, Defense Department, the White House and even the CIA.

With some exceptions historians of what is now called national security policy seek documentation from a period 20-35 years ago, a period that coincides with access to some documents in presidential libraries, the National Archives, and the historical series of the Senate Foreign Relations Committee.

Experience has shown that information requiring absolute secrecy at the time of its origin can be opened to the public after a passage of time with absolutely no harm to national security. Recent publication of the Senate Foreign Relations Committee's historical series is certainly a case in point. Testimony given in executive sessions behind closed doors and even "off the record" can now be published without harm to individuals or to national security. Unfortunately, S.1324 fails to recognize this fact. Under S. 1324, the files of 1953, for example, will be every bit as inaccessible as the files of 1983. There is no "cut-off" date for the exemption of these files. Since CIA files have never been sent to the National Archives and are unlikely to be sent in the future, information on foreign policy guidelines or planning in which the CIA participated will continue to be available only under FOIA. Thus a plan for eventual access to these documents is absolutely essential.

Third, we would like to point out that S. 1324 is ambiguous about the fate of another category of documents that is absolutely crucial in understanding contemporary American policy. It is unclear under the blanket exemption of S. 1324 that historians would gain access to information that originated in operational files but can also be found outside the confines of the CIA.

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The federal government classifies information, but historians use documents, and often documents containing information that originated in the CIA are found in other files. For example, NSC documents circulate to the State Department, the Defense Department and CIA. In addition, many NSC documents are in presidential libraries. Currently, before an NSC document can be declassified, it must be cleared by each participating member of the NSC. Under S. 1324, if a historian were to request the declassification of an NSC document that was filed in the operational files of the CIA would this document automatically remain classified because it was deemed operational? Certainly this question should be clarified, since the supporters of 1324 probably had no intention of closing off this category of documents.

To conclude, in order to clarify provisions in S.1324, we recommend the following changes:

1. The definition of operational files should be narrowed. The CIA should be allowed to exempt only those specific files that include information on the sources and methods of intelligence gathering.

2. Statutory provision should be made for the search and review of all files after a specified lapse of time ( 25 or 30 years would conform to current declassification procedures in other agencies).

3. The exemption from search and review should be limited only to those documents or information that can be found in no other government agency or organization.

We believe these recommendations would support the efforts of the CIA to protect their most sensitive records without depriving history of important documentation.

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Mr. Chairman, 1983 marks the 200th anniversary of the signing of the Treaty of Paris. Clandestine operations, spies, secret diplomacy have always been as much a part of our diplomacy as any other great nation of the world. We have had great foreign policy successes and monumental failures like other nations of the world. But we differ from many other countries in that we have always been able to face up to all facets of our past. Fundamental to our democratic society is the fact that we have traditionally allowed and often encouraged a thorough examination of past policies, successful and unsuccessful, in order to enrich our knowledge of the present and the future. In the final analysis an understanding of our past can only come through access to the documentary record. It is an example of our open society that the State Department records in the National Archives include some mid-19th century records labeled, " Expenses, Secret Agents." It enriches the knowledge of our own time that the most recently published volumes of documents from the State Department include candid discussions in the NSC of thirty years ago over intervention in Indochina. As foreign policy becomes subsumed by national security policy, the records of the CIA will become even more essential to future generations of Americans seeking an understanding of American history. In considering S. 1324, we hope this Committee and others in Congress will be extremely cautious in curtailing access to historical sources in such a decisive manner.